

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Modernizing the E-rate)	WC Docket No. 13-184
Program for Schools and Libraries)	

REPLY COMMENTS OF CENTURYLINK

Tiffany W. Smink
1099 New York Avenue, N.W.
Suite 250
Washington, DC 20001
303-992-2506
tiffany.smink@centurylink.com

John E. Benedict
1099 New York Avenue, N.W.
Suite 250
Washington, DC 20001
202-429-3114
john.e.benedict@centurylink.com

Attorneys for

CENTURYLINK

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EXECUTIVE SUMMARY

The Notice of Proposed Rulemaking (“NPRM”) raised a broad collection of questions, proposals, and ideas about potential changes to the Universal Service Fund’s Schools and Libraries Program (“E-rate”). The Commission received an extraordinary number of submissions in response. Clearly, there is strong interest in the current E-rate program and interest in and concern about revisions to or expansion of the program. CenturyLink believes the record supports the following conclusions.

First, parties generally agreed that the Commission should be careful not to undermine the existing program. Most everyone agreed that services for which there is little demand may appropriately be discontinued, but many parties cautioned against making abrupt changes to the existing E-rate program on which schools and libraries rely. Most applicants joined CenturyLink and other parties explaining that the Commission should not discontinue E-rate support for voice services, or limit support to voice that is bundled with broadband services.

Second, applicants and service providers agreed that school and library administrators – not the Commission or Universal Service Administrative Company (“USAC”) representatives – should determine what bandwidth, technology, or service is most suited to their needs. Enhancing connectivity is a fine goal, but the Commission should not dictate particular bandwidth, service technology, or target dates. Before making major changes to the E-rate program or establishing particular goals, the Commission should collect data from the applicant community about schools’ and libraries’ real-world bandwidth usage. During that review of real-world usage, CenturyLink also suggested that the Commission consider extending E-rate eligibility to cloud data storage as a means for reducing costs for E-rate applicants as they expand their use of capacity-intensive applications.

Third, service providers emphasized the need for the Commission to be sensitive to the impact of Universal Service Fund (“USF”) assessments on consumers and contributors. They agreed with CenturyLink that the Commission should be cautious about any increase in E-rate program funding requirements. Given funding realities, discount and matching fund levels likely would need adjusting to avoid overburdening the USF. In addition, service providers typically agreed with CenturyLink that the Commission should ensure that policy goals do not affect some service providers more than others. That means maintaining the distinction between telecommunications and Internet access services, so that providers are all licensed carriers and USF contributors if they are to be eligible telecommunications providers.

Fourth, several service providers noted that the Commission cannot allow any expansion of the E-rate program to undermine the Connect American Fund (“CAF”). The Commission needs a robust CAF program if the nation is to realize its goals for broadband deployment in rural and high-cost areas where construction and service is otherwise uneconomic. Any policy that would diminish CAF funding to boost E-rate spending would undermine deployment in communities and only make connectivity more difficult and expensive for schools and libraries in rural communities.

Fifth, many service providers noted that the Commission must protect the efficiency and fairness of the competitive bidding process. That means ensuring program rules do not discriminate for or against technology or type of provider and that Commission and USAC personnel do not promote particular types of providers, technology, or service arrangements. That also means not artificially favoring consortia or allowing publicly-owned or – operated fiber that bypasses the competitive procurement system when commercial providers stand ready to build or serve.

Sixth, everyone agreed that the Commission needs to genuinely simplify E-rate administration. It should reduce regulatory burdens and requirements, being mindful of costs they impose on applicants and service providers. Virtually every commenter opposed extending document retention requirements to ten years or requiring the posting of price or bid information. The Commission should also keep certifications to a minimum and allow parties to determine the appropriate representatives to sign, rather than requiring officers' signatures. And nearly everyone agreed that the Commission should eliminate the unnatural, middleman role of service providers in the Billed Entity Applicant Reimbursement ("BEAR") process.

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I. INTRODUCTION

Interest in the E-rate program is obviously high. The Commission received more than 750 comments or short statements in response to the Notice of Proposed Rulemaking.¹ Although there are differences of opinion among parties filing substantive comments, everyone has an interest in the program being managed fairly, efficiently and cost-effectively in support of its educational mission. In any revisions to the program, however, it is critical to avoid undue impact on consumers and carriers that fund the program, to avoid increasing administrative costs and complexity, and to avoid undermining larger broadband investment goals in areas to be supported by the Connect America Fund (“CAF”). The Commission should, therefore, be cautious about making any major changes to the program or its rules.

II. GOALS AND MEASURES (NPRM ¶¶ 13-55)

A. The Commission should collect data on school and library bandwidth usage before making major changes to the E-rate program.

Many parties cautioned against making abrupt changes to the E-rate program. Applicants rely on the program, and changes could have significant impact on applicants and service

¹ *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, FCC 13-100, Notice of Proposed Rulemaking, 28 FCC Rcd 11304 (rel. July 23, 2013) (“NPRM”). Comments were filed September 16, 2013. The Commission extended the original reply date to November 8, 2013.

providers. CenturyLink agrees with Verizon, for example, when it said the Commission should collect more data on how voice and broadband services and facilities are used in schools and libraries before making “far reaching changes” to the program. Verizon at 8-10.² Seattle Public Schools (at 3) shared “concern[] that the E-rate changes thus far are not driven by data and research, but rather seem to be a collection of varied opinions and anecdotes...,” and noted that the SETDA model in the NPRM could yield “serious over-provisioning” for wireline bandwidth.

Service providers typically agreed with CenturyLink that the speeds at which broadband is available, and whether fiber is available to any particular school or library, cannot be determined by simply referring to the National Broadband Map or state maps. Nor can the Commission rely on surveys of purchasers of current services. In addition to being inevitably dated in content, such maps and surveys at best show only where facilities have already been built. They do not mean that one or more providers are not willing to step forward to construct new or higher capacity facilities if a school, library, or district requests new or expanded service.

As for the best means of gathering data about schools’ and libraries’ use of broadband, CenturyLink agrees with Council of the Great City Schools (at 5) that the appropriate way is by surveys of the education and library community, not by adding requirements to existing paperwork like Forms 471.

B. The Commission should not set mandatory or arbitrary targets.

There is no need to dictate level of connectivity, type of connection, or dates for adoption for schools and libraries. Applicants and service providers alike agreed that school and library administrators, not the Commission or USAC, should determine the bandwidth, technology, or service that best serves their particular needs. “One size does not fit all.” ALA at 26. Rather,

² CTIA (at 12) also noted that the Commission has “insufficient factual data ... to draw any firm conclusions.”

each school district has different educational needs, so it appropriately “is up to the district to determine the best use of their limited funds or what educational priorities to focus on in the upcoming year.” Cox at 4-5. And fiber is not “always the best solution.” Adtran at 20.

CenturyLink took no position on the NPRM’s recommendation for 100 Mbps per 1,000 students and a goal of 1 Gbps. CenturyLink recognizes, however, that the timetables recommended by SETDA are very ambitious. SETDA at 16-17. It may be unrealistic to expect to believe that schools serving 99% of students could reach 100 Mbps per 1,000 students by the 2014-2015 school year and 1 Gbps by the 2017-18 school year. CenturyLink serves many schools and libraries at such speeds today, and it shares the goal of expanding connectivity in its many communities nationwide. An effective and efficient expansion of connectivity, where needed, should not be handled hastily.

The far higher minimum bandwidth proposed in HP’s comments seems unduly aggressive, despite a slightly longer timetable. HP recommends 5 Gbps per 500 students and 1 Gbps for schools with 100 students, and at least 1 Mbps per student for school WANs, and “preferably more,” targeted at 2020.³ Given funding realities, the Commission should explore actual, realistic usage by schools and libraries before adopting arbitrary targets.

Many parties agreed with CenturyLink that the Commission should not set network performance requirements, nor mandate broadband performance measurements. School and library administrators are in a position to assess the quality of the services they receive and the equipment they procure. Service providers and applicants alike believe the Commission should not add such administrative burdens.

³ HP at 9. HP suggests 1Gbps is “sufficient for most libraries.”

C. The Commission should take genuine steps to streamline administration and reduce administrative burdens.

All parties supported the Commission's stated goal of reducing complexity and administrative burdens for applicants and service providers. Yet nearly every commenter voiced frustration about the NPRM's many proposals that would increase these burdens for little reason.⁴ Parties need the Commission to take genuine steps to streamline administration and to exercise genuine restraint in adopting and changing rules. The Commission should not be extending document retention requirements, demanding more certifications on E-rate program participants, imposing mandatory audits, or requiring disclosure of bid and price information. Even the industry of E-rate consultants – which thrives on the complexity the Commission has already created – generally disapproves of the NPRM's regulatory requirements.

III. ENSURING SCHOOLS AND LIBRARIES HAVE AFFORDABLE ACCESS TO 21ST CENTURY BROADBAND (NPRM ¶¶ 56-176)

A. The Commission should be cautious about any increase in E-rate fund size.

Understandably, the applicant community welcomed the NPRM's invitation to call for an increase in E-rate funding. Many applicants would like to see a “permanent” and “immediate” doubling of the fund to \$5 billion or more annually.⁵ Education Super Highway called for a “one-time upgrade fund” to connect every school and library with fiber. But service providers pointed out that funding cannot be unrestrained. Everyone must “recognize[] that funding for the program comes from American consumers.” NCTA at 2.

The Commission must be mindful of the impact of any increase in E-rate funding on Universal Service Fund assessments and the carriers that must collect them from their customers.

⁴ See, e.g., E-rate Central at 7-11; USTelecom at 2-9; NCTA at 14-16.

⁵ E.g., EdLiNC at 2, 10-11; Houston Independent School District at 1, 2; NEA at 2-5.

While CenturyLink took no position on the appropriate fund size, the Commission must ensure policy goals do not unreasonably burden consumers nor weigh more heavily on some industry players than others. However, the Commission cannot reasonably make any major increases to the E-rate fund size until it has completed contributions reform – a measure not addressed in the NPRM.⁶

B. Any changes to E-rate must not undermine the existing program.

Commenters largely agreed with CenturyLink that the Commission must ensure it does not undermine the existing program. Parties uniformly agreed that services or products with little demand can appropriately be discontinued. Paging, directory assistance, dial-up services, text messaging, and 800 services can readily be phased out.⁷

However, “ride over” services have value, so services like Email, web hosting, and similar services should continue to receive support. In CenturyLink’s view, cloud storage services also would be a worthwhile addition to the Eligible Services List.⁸ With growth in bandwidth and in applications, schools and libraries will see storage needs grow dramatically. Cloud services provide a far more cost effective approach and ought to be encouraged at the same time as connectivity is increased. Additionally, although some parties see support for maintenance as unnecessary (*e.g.*, SECA at 20-21; Wisconsin at 15), CenturyLink’s experience shows that ending support for basic maintenance of internal connections would be false economy. Some schools have problems maintaining their E-rate supported facilities, and the complexity of those systems will only grow with higher connectivity and continuing expansion

⁶ The current contribution factor is a high 15.6%, and it applies more heavily on traditional carriers like CenturyLink than on their competitors.

⁷ CenturyLink also agrees with South Dakota (at 13) that support for wireless air cards can reasonably be phased out.

⁸ See CenturyLink at 8.

of WANs. Schools and libraries have fixed annual budgets, and they need predictability of maintenance service. Otherwise necessary maintenance or repairs too often may be deferred, leading to waste of school and program resources and compromising instructional benefits for students.

C. Stand-alone voice should continue to receive E-rate support.

Individual applicants mostly agreed that the Commission should not discontinue support for voice service or limit it to voice bundled with broadband offerings. Arkansas (at 15) and the South Dakota Department of Education and South Dakota Bureau of Information and Telecommunications (at 10-11) explained that many schools and libraries rely on unbundled voice service. The Council of the Great City Schools (at 11) warned that loss of E-rate support for such services could “result in the need to discontinue those services or ... increasing loss of functionality as systems fall into disrepair.” Others cautioned particularly against any “flash cut” elimination of “legacy services” like voice. ALA at 4. Phasing out support for telephone services would undermine program objectives and “it could create economic incentives that force applicants to invest in one technology over another, regardless of whether the investment makes the most sense in terms of local needs and finances.” Funds for Learning at 29.⁹

Applicants were not alone in recognizing the importance of standalone voice services; many service providers agreed. Schools rely on landline telephone services “to connect offices and classrooms to the outside world,” they “rely on E-rate dollars to meet their needs for telephone service as well as their broadband needs,” and they should continue to be funded at the same rate. Cox at 10. Windstream (at 6-7) also argued against eliminating support for voice

⁹ Wisconsin Department of Public Instruction (at 7) opposed eliminating support for POTS service, but if necessary suggested capping such support at \$2,000 per applicant annually. Wisconsin further opposed ending support for other voice service components, including 800 services and call blocking. Cox (at 10) suggested limiting voice lines to 1,000 per applicant.

services, and Cox (at 10) rightly added that if the Commission were to impose restrictions on support for voice services, it should “apply equally to fixed and wireless voice services.”

Traditional voice services, in particular, are noted for their exceptional reliability and cost effectiveness, and school and library administrators should have the discretion to select the product that best suits their particular needs.¹⁰

Moreover, CenturyLink (at 11-12) pointed out that the Commission cannot eliminate E-rate support for voice services without conflicting with the requirements of the Act. Universal service support extends to the services of “telecommunications carriers” that “are supported by Federal universal service support mechanisms.”¹¹ Standalone voice is among them, and in the *USF/ICC Transformation Order*, the Commission explained that voice, not broadband, is the USF-supported service,¹² and it expressly required eligible telecommunications carriers to offer standalone voice service.¹³

¹⁰ NTCA and WTA at 24.

¹¹ 47 U.S.C. §§ 254(c)(1), (c)(3). *See also* 47 U.S.C. § 254(h)(1)(B).

¹² *In the Matter of Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform - Mobility Fund*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd 17663, 17684 ¶ 62, 17692-93 ¶¶ 77-78, 17756 ¶ 247 (rel. Nov. 18, 2011) (*USF/ICC Transformation Order* or *Order*), *Order Clarifying Rules*, 27 FCC Rcd 605 (rel. Feb. 3, 2012) (*Clarification Order*), Erratum to *USF/ICC Transformation Order* (rel. Feb. 6, 2012), *Further Clarification Order*, DA 12-298, 27 FCC Rcd 2142 (2012), Erratum to *Clarification Order* (rel. Mar. 30, 2012), Second Erratum to *USF/ICC Transformation Order*, DA 12-594, 27 FCC Rcd 4040 (2012), *pets. for recon. granted in part and denied in part*, Second Order on Recon., FCC 12-47, 27 FCC Rcd 4648 (2012), *pet. for rev.*, *Windstream v. FCC* (10th Cir. No. 12-9575); Third Order on Recon., FCC 12-52, 27 FCC Rcd 5622 (2012), Erratum to Second Order on Recon. (rel. June 1, 2012), *Order Clarifying Rules*, DA 12-870, 27 FCC Rcd 5986 (2012), Erratum to *Order Clarifying Rules* (rel. June 12, 2012), Second Report and Order, FCC 12-70, 27 FCC Rcd 7856 (2012), Fourth Order on Recon., FCC 12-82, 27 FCC Rcd 8814 (2012), *Order Clarifying Rules*, DA 12-1155, 27 FCC Rcd 8141 (2012), Fifth Order on Recon., FCC 12-137, 27 FCC Rcd 14549 (2012), Erratum to Fifth Order on Recon. (Dec. 4,

Regardless, as ITTA noted (at 20-21), there is no need to phase out support for standalone or traditional voice service. Over time, the market is moving to voice of Internet protocol, so that voice services will increasingly become an application utilized with, and often bundled with, broadband services. During the transition, schools and libraries should have the flexibility to choose the voice services option that best serves their needs.

Although CTIA and wireless carriers disagreed, a variety of other commenters concluded that support for air cards can be discontinued. *E.g.*, South Dakota at 13. CenturyLink also supports Cox's suggestion that cost allocation of wireless handsets should be required, at least so long as wireline telephone or VoIP handsets must be cost-allocated. The Kentucky Department of Education (at 3) warned that applicants are ordering far too many wireless data plans -- even though they are "an inefficient way to meet connectivity requirements" compared to WiFi connected to a high-speed WAN -- simply because they "view these data plans as a means to acquire end-user devices."

D. Discounts and the matching funds requirement likely need adjusting to avoid overburdening the Universal Service Fund.

Despite their eager appetite for E-rate funding, many applicants opposed any increase in matching fund requirements or reductions in discounts.¹⁴ CenturyLink pointed out, however, that a 2003 USAC task force recommended at least a 20% matching requirement for Priority 2

2012), Sixth Order on Recon. and Memorandum Opinion and Order, FCC 13-16, 28 FCC Rcd 2572 (2013), Erratum to Third Order on Recon., DA 13-309 (rel. Mar. 1, 2013), Erratum to Sixth Order on Recon. and Memorandum Opinion and Order (rel. Mar. 7, 2013), *Order Clarifying and Correcting Rules*, DA 13-564, 28 FCC Rcd 3319 (2013), Erratum to *Order Clarifying and Correcting Rules* (rel. Apr. 8, 2013), *Order Clarifying Reporting Obligations for 2013 and 2014*, DA 13-1115, 28 FCC Rcd 7227 (rel. May 16, 2013), Erratum to *Order Clarifying Reporting Obligations for 2013 and 2014* (rel. May 29, 2013), *pets. for rev. of USF/ICC Transformation Order pending, sub nom. In re: FCC 11-161* (10th Cir. No. 11-9900, Dec. 16, 2011).

¹³ *Id.* at 17693 ¶ 80.

¹⁴ *E.g.*, ALA at 16-17; Council of the Great City Schools at 12; Houston at 4.

projects,¹⁵ and the new Healthcare Connect Fund requires 35% matching funds for Priority 2 spending.¹⁶ California Department of Education (at 7), however, recognized that the program should “gradually decrease” discounts to free up more funding for expanding connectivity. Alabama State Department of Education (at 9, 16-17) also agreed that the Commission should “revisit” discount levels and may lower them “as long as such an event provides equitable access” to funding.¹⁷

NTCA and WTA (at 18-21) argued that E-rate program reforms should focus first on availability, and only second on affordability, which means adjusting both the discount and matching fund requirements. Verizon (at 15-16) argued that the Commission should focus, in particular, on adjusting discounts rather than increasing the E-rate fund size or eliminating voice services. Given the practical limits on potential funding, the ambitious nature of the ConnectEd Initiative,¹⁸ and the importance of continued voice service, CenturyLink agrees that the Commission should consider such adjustments to help enable more funding for high capacity broadband connectivity.

E. Potential expansion of the E-rate program must not undermine the Connect America Fund.

CenturyLink also agrees with NTCA and WTA (at 25-26) that the Commission cannot “cannibalize” the Connect America Fund to pay for an expansion of the E-rate program.

¹⁵ USAC, Recommendations of the Task Force on the Prevention of Waste, Fraud and Abuse, at 3-4 (Sept. 22, 2003) (submitted with letter from Cheryl Parrino, USAC, to Marlene Dortch, Secretary, FCC (filed Nov. 26, 2003).

¹⁶ See *Healthcare Connect Fund Order*, 27 FCC Rcd at 16717-19, ¶¶ 84, 91.

¹⁷ Some in the applicant community believe lowering the discount percentage is an appropriate way to free up additional funding. *E.g.*, Erate Central at 5; SECA at 20.

¹⁸ See The White House, Office of the Press Secretary, *ConnectED: President Obama’s Plan for Connecting All Schools to the Digital Age* available at http://www.whitehouse.gov/sites/default/files/docs/connected_fact_sheet.pdf.

CenturyLink understands the suggestion that Lifeline spending could be reduced to help enable greater E-rate support. The Lifeline program has grown from \$400 million to \$2.2 billion annually in just a few years. But NCTA's proposal (at 11) to maintain a cap on overall USF funding cannot be justified if that means reducing CAF funding. Promoting broadband infrastructure deployment and upgrades in uneconomic areas is critical for rural communities and for the schools and libraries located there, too.

CAF support is essential to help enable broadband buildout and upgrades in much of the country where low density makes such investment otherwise uneconomic.¹⁹ By definition, homes, businesses, schools and libraries in those communities need a strong, amply funded Connect America Fund if they are to realize the benefits of high-speed Internet service.²⁰ Without a robust CAF program, no service provider will be able to justify investing in the high speed broadband infrastructure those communities expect, and schools and libraries in those communities will have to face fewer options and higher costs for broadband connectivity.

SECA (at 15-16) wrongly suggested "saving costs" by "leveraging Connect America Funds to defray the payment of non-recurring installation costs" for E-rate customers in rural areas where a service provider accepts CAF support. SECA argued that, "at a minimum," a carrier should "provide a credit to the [E-rate] customer for building-out of new broadband services," an amount equal to the CAF support received for deploying broadband there. SECA's idea is based on a faulty assumption of "double-dipping of universal service funds between the different mechanisms" when a CAF-supported carrier serves an E-rate customer.

¹⁹ *See generally* ITTA at 13-14.

²⁰ CenturyLink, for instance, currently serves an area of nearly 600,000 square miles, which includes many rural and isolated areas. For many communities, high costs and low densities mean investment in broadband deployment and upgrades simply cannot be economic without CAF support.

E-rate support is not a subsidy for a telecommunications carrier. It is support for a school or library to help it pay a market rate for competitively procured services. The E-rate program is about providing educational purchasers a subsidy to serve social goals; it is not about supporting a telecommunications carrier in investing where business is uneconomic. There is no duplication of funding source. By definition, high cost support is available where a carrier's rates are too low – where it is uneconomic to build a network and provide service at the minimum level established by the Commission.

Reducing CAF support where a participating carrier provides special construction or connectivity to a school or library in a high cost area would be inconsistent with the CAF regime. In some marginal areas, such a policy could lead carriers to decline to accept CAF support, undermining broadband deployment and upgrades in those communities. And it could lead CAF-eligible carriers to decline to enter contracts with rural schools and libraries in others, diminishing competitive choices and raising costs for the program and applicants.²¹

IV. MAXIMIZING THE COST EFFECTIVENESS OF E-RATE FUNDS (NPRM ¶¶ 177-223)

A. Changes to E-rate rules must not undermine the competitive bidding process.

The Commission must avoid undermining the fairness and efficiency of the competitive bidding process. There should be no shortcuts in bid process, no discrimination in policy, and technological neutrality among technology.²² That also means no artificial incentives for bulk

²¹ CenturyLink also disagrees with the notion that E-rate customers should be exempted from USF contribution assessment. *E.g.*, E-rate Provider Services at 7. At least until the Commission completes larger USF contributions reform, it must resist policies that serve to further narrow the contribution base.

²² *See generally* ITTA at 8-13; NCTA at 16; USTelecom at 9, 14-15. Adtran (at 20) also notes the importance of technological neutrality.

buying arrangements, no favoritism toward consortia or publicly owned organizations that operate private fiber networks versus commercially provided service.

B. Consortium purchasing or “partnerships” should not be artificially promoted.

Commenters all recognized the benefits of bulk buying arrangements, by which E-rate customers can combine purchasing to realize lower costs. Parties widely agreed that the Commission does not need to encourage purchasing through state master contracts or consortia or to give such purchase arrangements artificial preference. After all, procurement through bulk buying arrangements and consortia is already allowed and widely used.²³ Under the current program rules, “there is ample incentive for schools to come together to purchase in bulk[.]” including by participating in state master contracts, consortia, and similar arrangements.²⁴

Consortia, however, pose problems that often frustrate lower costs and undermine larger broadband policy. Cox pointed out that encouraging purchasing through consortia “may actually increase prices because fewer providers will be qualified to bid cost effectively on the entire consortium area due to limits on the reach of their service areas. When the Commission allowed consortia to receive E-rate support, it assumed that aggregating demand would always lead to lower prices and promote efficient use of shared facilities. But while combining demand can reduce prices, when consortia deploy dark fiber or lease or construct their own facilities, the benefits and efficiencies are commonly lost.

Although some consortia have been managed well, too often these organizations misjudge their members’ needs or warehouse excess capacity. Too often they underestimate the costs of maintenance and operation, and publicly-owned networks have a poor track record of

²³ AT&T at 10; Verizon at 23-25.

²⁴ Cox at 5.

financial and operational performance. And consortia rarely appreciate their impact on broadband investment in their surrounding communities. By bypassing commercial service providers who could build to serve them, and by overbuilding existing commercial networks, consortia actually frustrate broadband investment in surrounding areas.²⁵

These problems will only multiply as connectivity is increased. Accordingly, the Commission should not encourage participation in consortia or publicly-owned networks that lease or operate their own fiber. Additionally, applicants should not be eligible for E-rate discounts for purchases through consortia that include non-E-rate eligible participants, such as municipalities, universities, and health care providers. These raise too many issues and complications for fair procurement and program administration.

CenturyLink also agrees with other service providers that combining publicly owned E-rate facilities with other users is unwise.²⁶ Schools and libraries should be customers like any other. When they seek competitive services, service providers will already consider availability of adjacent fiber or other current or potential customers, which will include backhaul for cell towers and connectivity to any other users. The market will provide these efficiencies far better than the Commission, USAC, or applicants ever could. The Commission should let the market work, instead of encouraging “partnerships” that are likely to be far less efficient and will be influenced by other, non-business considerations.

C. There is no need to encourage use of bulk buying arrangements.

The Commission also does not need to encourage bulk buying arrangements. State master contracts, regional contracts, and other bulk buying opportunities are widely used by E-rate applicants today. Most parties also were clear that the Commission should not require use of

²⁵ See generally ITTA at 13-14; Cox at 5-6.

²⁶ E.g., AT&T at 7-8.

state master or regional contracts or other bulk buying arrangements.²⁷ Schools and libraries should have the flexibility to purchase consistent with their particular needs and situation. But administrators are in the best position to determine whether state contracts provide the best option to meet their needs. Often, purchasing separately allows more options for product, term, and volume, more choice in service provider, and sometimes even lower pricing.

HP (at 3, 9, 17) argued that the Commission should allow financing of E-rate purchases. CenturyLink believes financing raises too many complexities that would make fair and competitive procurement more difficult and would introduce too many opportunities for waste, fraud, and abuse.

D. E-rate should not fund construction or operation of applicant -- or consortium-owned private fiber networks.

Service providers all agreed with CenturyLink that schools and libraries should not receive E-rate funding to build or operate private fiber networks. Nor should the Commission add modulating equipment or special construction charges to E-rate eligibility. CenturyLink agrees with Windstream and other providers that supporting applicant-owned networks would be an inefficient use of limited E-rate funds. “Network and service providers who perform these functions on a full time basis are best equipped to build and operate WANs in the most cost effective manner....” Windstream at 5.²⁸

Some applicants said they want the flexibility to build and operate their own fiber networks using E-rate money. The Council of the Great City Schools wants the E-rate program to pay for applicants to build and operate their own fiber networks, not merely lease capacity from commercial network operators. Internet2 and Erate Central want the Commission to

²⁷ *E.g.*, Council of the Great City Schools at 13; Erate Central at 3, 10; Cox at 5-6.

²⁸ *See also* AT&T at 8-9; Comcast at 39-40; ITTA at 15-16.

eliminate the regulatory difference between lit and dark fiber, so that, as ALA puts it, schools and libraries can “maximize options available.”²⁹ But more options or flexibility does not necessarily lead to lower costs. In fact, as Comcast (at 26-34) pointed out, applicants usually have neither the experience nor the incentive to manage capacity as efficiently as commercial service providers.

Although some public systems have been successfully managed, most public broadband networks understate their costs to build, operate, and maintain. Moreover, once these systems are in place, these schools and libraries are removed from the competitive marketplace, ignoring any other options, regardless of their greater cost-effectiveness. Ultimately, these new publicly-owned fiber networks can easily cost more than finished services provided over existing or upgraded private networks. And it is a mistake to assume that just because an applicant may receive no express bid for service in response to a Form 470, that broadband service is unavailable.³⁰ Where an applicant is currently receiving service, its invoice acts as an effective bid for continued or renewed service, and effective bid offerings include tariffed or scheduled offerings that are generally available to any requesting customer. For the same reasons, receiving just one bid does not mean there is no other provider available to serve.

CenturyLink agrees with Cox that the Commission should not direct E-rate money to “special construction charges” for new private fiber networks without adequate safeguards to prevent abuse and waste. “The costs and technical challenges of lighting dark fiber or constructing and maintaining new fiber networks are not always apparent to E-rate applicants at the outset” (Cox at 6), and established, commercial service providers typically have network capacity or can build and operate it more efficiently and reliably. Cox suggested that, if the

²⁹ Internet2 at 14; E-rate Central at 4; ALA at 13.

³⁰ *E.g.*, Missouri Research and Education Network at 3; South Dakota at 22; Iowa at 10.

National Broadband Map or any state map shows a provider is offering broadband services of sufficient capacity, the Commission should presume that an applicant may not construct new facilities or propose to purchase dark fiber. In fact, the Commission should go further. Even where a map does not show a provider offering such service, the Commission should realize that a provider can and likely will step forward to extend or upgrade its network to serve school or library demand.³¹ But they cannot be expected to build or upgrade their broadband networks if schools and libraries preemptively overbuild them.³²

E. The distinction between Priority 1 and 2 eligibility should be maintained.

CenturyLink agrees with SECA (at 5, 12-14, 20, 22-24) and most other parties that the Commission should retain the distinction between Priority 1 and Priority 2 supported services. An equipment vendor like HP (at 3, 14-15) may disagree, but even if the fund size were significantly increased, current services need to be funded ahead of facilities.

CenturyLink also supported SECA's suggestion that Priority services should be streamlined to focus on ensuring adequate bandwidth transmission within the school building, and that all other functionality should be removed from E-rate funding.³³ It is reasonable to limit Priority 2 eligible services to routers (one per building), wireless access points (one per classroom), and internal cabling (no more than three drops per classroom). Standardizing

³¹ See CenturyLink at 2-3.

³² The NPRM's discussion (at ¶¶ 163-165) of "public-private" partnerships implies that E-rate funded networks might share their networks or capacity with third parties, such as state or local governments or research and education ("R&E") networks. AT&T (at 7-8) pointed out, Section 254(h)(3) expressly prohibits any resale of E-rate funded services or network capacity.

³³ Letter from Gary Rawson, State E-rate Coordinators' Alliance, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 02-6, at 7 (filed Jun. 24, 2013) (attaching "Recommendations for E-rate Reform 2.0").

Priority 2 eligibility in this way would help streamline administration, improve predictability, and provide a more uniform reasonable level of support.

F. Posting of price or bid data should not be required.

Service providers all agreed that there is no good reason why the Commission should require posting of pricing and bid data. AT&T and Verizon, for example, explained that publishing such information is “unnecessary and ill-advised.”³⁴ Awarded contracts and tariff or schedule terms are already publicly available. Detailed contract and bid information is retained by applicants and providers and available to the Commission or USAC on reasonable request.³⁵ For tariffed or scheduled services, terms and pricing are easily available. For contract services, price and bid data is generally not useful given the unique requirements of each service arrangement and differences in geography, services, and contract terms. Competitive bidding requirements and the Lowest Corresponding Price (“LCP”) rule³⁶ already ensure applicants receive the lowest price charged for any similarly situated customers. The Commission would be unwise to assume responsibility for setting price benchmarks or trying to impose price controls for the scores of thousands of schools and library purchasers nationwide.³⁷ And CPNI rules actually restrict carriers from releasing customers’ purchase information.

Applicants and others also broadly opposed the NPRM’s suggestion.³⁸ They cited the considerable administrative costs and burdens. However, they also emphasized the harmful

³⁴ Verizon at 23-25. *See also* AT&T at 12-13; Sprint at 15.

³⁵ Commission rules direct that parties retain records of rates charged to, and discounts allowed for eligible schools and libraries. *See, e.g.*, 47 C.F.R. § 54.501(c)(3).

³⁶ 47 C.F.R. §§ 54.500(f), 54.511(b).

³⁷ There are more than 130,000 schools and nearly 9,000 public libraries -- in 50 states and more than 3,000 counties. *See* CenturyLink at 17 & n. 28.

³⁸ *E.g.*, South Dakota at 23.

effects such requirements would have on the competitive procurement process. SECA, for example, opposed any effort to require applicants to routinely post or submit contract and bidding documents beyond the existing document production requirements that are part of audits or special compliance reviews. Requiring contract pricing or bid data “will not help lower prediscount prices for applicants[,]” but “is an extremely burdensome task [that] does not seem to be of much use.” SECA at 41.

SECA also noted that such a policy “is completely at odds with the FCC’s decisions of the past 20 years to forbear from requiring telecommunications carriers to file tariffs with prices set forth therein[, and] recognition of the fact that the communications industry has evolved from a monopoly to competitive marketplace.” SECA at 41. In fact, a requirement to post “vendor pric[ing] for contracts and/or bids for services would discourage, not encourage, robust competition and/or lower prediscount prices because vendors would refrain from submitting bids for fear of having to publish confidential or proprietary information.” *Id.* at 41-42. As Erate Central (at 7) concluded, proposals on “price transparency would lead to an unwarranted expansion of USAC’s role into market regulation” – regulation that would almost certainly be a counterproductive failure.” *See also* South Dakota at 22. Similarly, having USAC operate an office to help applicants track the best terms for E-rate eligible services and products would likely prove unworkable. USAC also needs to be a neutral party in E-rate program administration and in E-rate service procurement.

G. No action on the Lowest Corresponding Price rule is needed.

No commenters asserted that the competitive procurement process fails to deliver value for applicants or for the E-rate program. Comments also show there is no need to take any steps to ensure compliance with the Lowest Corresponding Price (“LCP”) requirement. Although

some service providers noted the long-standing CTIA/USTelecom petition for clarification,³⁹ applicants did not recount concerns that they are paying higher rates than other, similarly situated customers purchasing comparable services. Indeed, as CenturyLink suggested (at 4), the operation of the E-rate market shows that the LCP rule itself is unnecessary today, if it ever was. CTIA at 11. CTIA said the LCP rule is not needed for wireless services, because the market is competitive. But the same is equally true for wireline services. Schools and libraries purchase their services through competitive procurement; wireline service providers operate in a genuinely competitive marketplace.

The Bureau of Indian Affairs suggested having providers publish their “lowest corresponding price” so that schools can compare their pricing and decide if they are indeed receiving the best pricing for their service. BIA at 7, 12. But such a policy is truly impractical. The LCP for any particular customer depends on too many variables specific to the customer’s particular service arrangements. E-rate customers – their location, their needs, their terms and conditions – are typically unique, making comparisons not meaningful. Similarly, although the American Library Association (at 5) suggested requiring an automatic “LCP review” for any bid over a given threshold value, it does not cite any real-world concern that service providers are failing to deliver the LCP. The SHLB Coalition (at 9) suggested “defining the term ‘similarly situated’ to bring E-rate service prices down and make more efficient use of E-rate funds.” The Commission is not free, however, to invent definitions for the purpose of achieving a favorable result for one party.

Proposals such as these show some confusion in the applicant community about the Lowest Corresponding Price rule, which is why CTIA and USTelecom filed a petition about the

³⁹ Comcast and Sprint encouraged the Commission to grant the petition to confirm industry understanding of the LCP rule. Comcast at 36-37; Sprint at 14-15. *See also* CTIA at 11.

rule three years ago.⁴⁰ These applicants' comments do not cite any instances of service providers failing to deliver the LCP. They do not show that any Commission action is necessary either to ensure compliance or to ensure that applicants are receiving value in their competitive procurement of E-rate services.

V. STREAMLINING ADMINISTRATION OF THE E-RATE PROGRAM (NPRM ¶¶ 224-269)

A. Electronic filing should be an option to reduce administrative costs.

Commenters all supported the NPRM's proposal (at ¶ 227) to enable electronic filing in the E-rate program. The Commission already requires service providers to utilize electronic payment systems to receive E-rate disbursements. Applicants, however, insisted that electronic filing be optional, not mandatory.⁴¹ CenturyLink believes the Commission should enable electronic filing by applicants and electronic notices by USAC. Additionally, storing all of an applicant's relevant forms and correspondence on a centralized portal seems a good idea.⁴² USAC could turn to cloud storage to help provide schools and libraries a cost effective means of keeping track of their program records.

⁴⁰ Petition by United States Telecom Association and CTIA – the Wireless Association for Declaratory Ruling Clarifying Certain Aspects of the “Lowest Corresponding Price” Obligation of the Schools and Libraries Universal Service Program, CC Docket No. 02-6 (filed Mar. 19, 2010). See *Wireline Competition Bureau Seeks Comment on Petition of United States Telecom Association and CTIA – The Wireless Association® for Declaratory Ruling Clarifying Certain Aspects of the “Lowest Corresponding Price” Requirement of the Schools and Libraries Universal Service Program*, Public Notice, 25 FCC Rcd 3662 (Wireline Comp. Bur. 2010).

⁴¹ E.g., Arkansas at 21; NEA at 9-10; SETDA at 21; Utah Education Network at 19; Sprint at 18-19.

⁴² SECA (at 42-44) recommended such a portal for applicants. Arkansas (at 21) was one of many applicants that supported the idea.

B. Applicants with multiyear contracts should be allowed to file a single Form 471.

Parties widely supported the NPRM's proposal (at ¶ 241) that, absent a change in contract service provider or recipient of service, E-rate applicants with multiyear contracts up to three years' duration should be allowed to file a single Form 471 application.⁴³ Everyone agreed with CenturyLink that multiyear contracts have the potential to lower costs for services, provide greater certainty, and minimize duplicative review by USAC.⁴⁴

Comments were not so universal on whether the Commission should alter program rules to permit multiyear commitments in the E-rate program. The FCC recently adopted a comparable policy in the Healthcare Connect Fund order, which provides for funding commitments of up to three years, but there is no record to see how that new policy may affect the program or constrain funding available for other applicants. It would be premature to allow multiyear commitments in the much larger E-rate program. Instead, it is sufficient for E-rate applicants to submit a streamlined application for renewal of existing service under a multi-year Form 471. The Commission also should not allow longer maximum terms for indefeasible rights of use ("IRUs") and dark fiber. Allowing longer maximum terms for these services could undermine availability of funding for other applicants with more conventional needs. For similar reasons, the Commission should not exempt certain services, such as IRUs for dark fiber, from any limits on multiyear contracts. *See* CenturyLink at 25; ITTA at 15-16.

⁴³ *E.g.*, Arkansas at 25-26; CenturyLink at 24; Sprint at 18-19.

⁴⁴ *E.g.*, ALA at 5, 19, 29; Council of the Great City Schools at 14; Cox at 5-6; NCTA at 13-14; Verizon at 19-21.

C. The distinction between telecommunications and Internet access services should be maintained.

Commenters naturally welcomed the idea of making the Eligible Services List simpler and more user-friendly. Many service providers, however, shared CenturyLink's concern that competing providers should be subject to uniform regulatory treatment. For that reason, it would be improper and unfair to change policy to remove the distinction between "telecommunications" and "Internet access" services to allow applicants to seek eligible services from any entity.

CenturyLink believes the Commission should be enforcing regulatory classifications more consistently in the E-rate program. Section 254(h)(1)(B) of the Act, after all, refers only to "telecommunications carriers providing service" to schools and libraries.⁴⁵ Disregarding the regulatory classifications distorts the competitive market in favor of unregulated players, while penalizing service providers like CenturyLink that are far more highly regulated, that comply with Commission and E-rate program rules, and that contribute, with their customers, to the Universal Service Fund that makes the E-rate program possible. The Commission should ensure that telecommunications services are provided by those that are qualified, licensed carriers, subject to the Commission's rules, and contributors to the universal service fund. Until the Commission deregulates telecommunications providers more generally and creates a level playing field for the entire industry, all E-rate service providers should be subject to the same rules, including these long-standing regulatory classifications.

⁴⁵ 47 U.S.C. § 254(h)(1)(B).

D. Service providers should not be middlemen in the disbursement process.

Service providers and applicants alike welcomed the NPRM's proposal to update processes to allow applicants to receive disbursements directly from USAC.⁴⁶ Currently, an applicant may choose either of two methods of reimbursement: it may pay the service provider the full cost and then submit a Form 472 Billed Entity Applicant Reimbursement ("BEAR") form, or it may pay only the applicant's discounted portion and then the service provider must file a Form 474 Service Provider Invoice ("SPI") form. The Commission initially adopted this reimbursement system on the assumption that service providers rather than applicants should seek compensation for "administrative ease."⁴⁷ But requiring "the service provider to act as a funding 'middle man'" needlessly complicates the disbursement process (Wisconsin at 16) and introduces delay (Kentucky at 6), especially when the applicant has multiple billing account numbers or must cost allocate services between eligible and non-eligible facilities (AT&T at 14-15). Additionally, the current BEAR process improperly interferes with the proper relationship between customer and provider.

Today, the vast majority of applicants sensibly utilize the BEAR process,⁴⁸ but current program procedures mean that USAC sends the applicants' funding electronically to the carrier, and the carrier must reimburse the applicant, often by physical check. The procedure drives up administrative costs and results in delays in payment to the applicant.

⁴⁶ E.g., ALA at 5, 30; Arkansas at 30; CenturyLink at 26-27; SECA at 6, 45, 48-49; Sprint at 12-13; Utah Education Network at 16; Verizon at 21; Windstream at 7-8. Iowa wants applicants to have the "option" to receive BEAR reimbursement directly from USAC, rather than through the service provider.

⁴⁷ *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, 9083, ¶ 586 (1997) ("*Universal Service First Report and Order*").

⁴⁸ Roughly 85% of CenturyLink's E-rate customers utilize the BEAR process.

AT&T, CenturyLink, Sprint, and Verizon reiterated industry's long-standing call to remove service providers from their present, unnatural middleman role and enable faster funds disbursement directly from USAC.⁴⁹ AT&T recommends going further and reforming the entire funding disbursement process. CenturyLink agrees, for example, that there are many inefficiencies and problems with the SPI invoice process. AT&T at 14. But the most important, most overdue reform of the invoice and disbursement process is removing service providers from the BEAR disbursement process. The Commission has discretion under Section 254 of the Act to have USAC make such payment directly.⁵⁰

E. A mandatory audit rule is unwarranted.

Most parties thought mandatory audit requirements were unwarranted and not cost-justifiable. AT&T and Verizon, for example, rightly said that USAC can exercise "appropriate discretion" (AT&T at 16-17) to conduct audits in any particular case. A mandatory third party audit requirement, similar to that adopted in the Lifeline program, is an unnecessary regulatory burden that would be "very expensive and not productive." Verizon at 28.

If the Commission were to adopt a new audit requirement, however, it should apply universally. It should not exempt applicants, nor should it exclude service providers below any given E-rate dollar or revenue threshold.

VI. OTHER OUTSTANDING ISSUES (NPRM ¶¶ 270-327)

A. E-rate document retention requirements should not be extended.

Commenters justifiably opposed to the NPRM's proposal to extend the E-rate program document retention requirements from five to ten years. Parties as varied as the Bureau of Indian

⁴⁹ AT&T at 14-16; CenturyLink at 26-27; Sprint at 12-13; Verizon at 21-22.

⁵⁰ *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393, 443-44 (1999), explaining FCC authority under 47 U.S.C. §§ 4(i), 254.

Affairs, CenturyLink, the Council of the Great City Schools, Funds for Learning, Iowa Department of Education, Kentucky Department of Education, Verizon, and Wisconsin Department of Public Instruction all agreed that extending the requirement would create needless costs for applicants and service providers and cannot be cost-justified.⁵¹

Under current rules, all parties (even *unsuccessful* bidders) must retain documentation for five years after the last day of delivery of service. That already is a lengthy document retention requirement, and with multiyear contracts, the duration stretches even longer. As CenturyLink explained, the Commission already has authority to require a “hold” of documents upon commencing an investigation of an E-rate program participant or provider. A targeted hold, with appropriate notice to the affected party, also helps ensure the Commission and USAC have access to appropriate records.⁵²

B. E-rate forms and certifications should not require officer signature.

Service providers uniformly opposed requiring that an officer sign Forms 472, 473, and 474.⁵³ Current rules allow an “authorized person” to provide the certification.⁵⁴ Sprint (at 13-14) explained that changing from this rule “would require officer signatures on potentially thousands of documents, the details of which the officer will have no direct knowledge[.]” The NPRM, after all, does not suggest why a form or certification signed by a corporate officer has any more impact than the signature of an authorized employee. Indeed, an employee involved in E-rate

⁵¹ BIA at 11; CenturyLink at 28-29; Council of the Great City Schools at 14; Funds for Learning at 60; Iowa at 17; Kentucky at 6; Verizon at 28-29; Wisconsin at 17. *See also* ITTA at 7, 11-12; USTelecom at 2-5, 16.

⁵² An “automatic” hold requirement is inappropriate. CenturyLink at 28-29.

⁵³ *See, e.g.*, USTelecom at 5-6.

⁵⁴ NPRM at ¶ 300.

procurement is far more likely to have understanding and first-hand knowledge of the activities covered by that documentation.

Incredibly, Erate Central (at 3, 9) suggested that signatures should be required from “senior officers” as a “useful reminder to corporate, school, and library officers of their real responsibilities with regard to E-rate.”⁵⁵ But it does not explain how that can be reasonable for larger service providers that must handle purchases from hundreds or thousands of E-rate applicants each year. CenturyLink for instance, is not the nation’s largest provider. Nevertheless, it noted (at 20, 29) that it serves nearly 4,000 distinct E-rate applicants, located in 46 states.⁵⁶ The company has 45,000 employees and more than \$18 billion in revenue, of which E-rate supported services are only a small part. It is unrealistic to assume that an officer will have any first-hand knowledge of particular transactions or familiarity with E-rate program rules and requirements. Officers of such companies should not be compelled to sign hundreds of E-rate forms when responsible, knowledgeable employees are designated for the task.

Nor would it be reasonable to require signature by an individual designated as “responsible for ensuring program compliance.” There is little benefit in escalating signatures to particular titled personnel within a company. Instead, it makes far more sense to leave the act of signing with the responsible individuals who are closest to the facts of the procurement.

C. There is no need for additional certifications from service providers.

CenturyLink was not alone in voicing concern about excessive regulatory burdens that would be imposed by expanding certification requirements.⁵⁷ The Commission already requires

⁵⁵ Even Erate Central (at 9) does not believe “that such reminders are needed or even practical for all forms,” but should be limited to the “most important” ones.

⁵⁶ CenturyLink at 29.

⁵⁷ ITTA at 7-10; NCTA at 15; USTelecom at iv, 5-6, 16.

certifications on Forms 470, 471, 472, 473, 474, 479, 486, and 500. Instead of increasing administrative costs for applicants and service providers, the Commission should be acting to streamline administration.

Service providers agreed that there is no need to change section 54.511 of the Commission's rules⁵⁸ to require service providers to certify their compliance with the LCP rule. Nor is there any purpose in requiring certifications that service providers complied with state and local procurement laws. As noted above, there is nothing in the record to suggest a problem of LCP compliance, and all parties are subject to state and local laws without regard to any certification requirement added by the Commission. Adding these unneeded, additional certifications will serve only to add that much more administrative burden. For the same reason, the Commission should not delegate to the Wireline Competition Bureau open authority to impose additional certification requirements. The Commission should recognize the administrative burdens that its rules impose on applicants and service providers, and it should recognize that these ultimately impose genuine costs on the program.

D. The E-rate program should not fund wireless community hot spots.

CTIA, Sprint, and Verizon all supported E-rate funding for wireless community hot spots.⁵⁹ Some applicants, such as South Dakota (at 24), would welcome such support. E-rate Central (at 14) acknowledged that the "concept raises a number of potentially significant issues including cost, effectiveness, public/private competition, etc.," and so suggested the Commission take no action without studying the use of community hot spots in a limited pilot program. Community use, however, is outside the scope of permitted "educational" purpose that the E-rate program is designed to support.

⁵⁸ 47 C.F.R. § 54.511.

⁵⁹ CTIA at 9-10; Sprint at 11; Verizon at 17-18.

CenturyLink was not alone in rejecting E-rate funding for community hot spots. E-rate is not “the proper program to address the 30% of households which do not have Internet access.” Wisconsin at 18. Wireless community hot spots are “well beyond the statutory purpose of the program.” The West Virginia Department of Education added that “[t]here is a difference between allowing users into your building with supervision and the school becoming for all intents and purposes an Internet Service Provider (ISP) for the surrounding community, both logically and legally. Moreover, in allowing community use of E-rate funded services after school hours, the Commission required students to have “priority” in order to meet the statutory requirement that funding be solely for “educational purposes.”⁶⁰ But with community hot spots, there can be no “priority” for students or for educational purposes. And while after-hours community use of school libraries was widely supported as imposing minimal burden on E-rate funded facilities, the burden of wireless community hotspots would not be so limited. The Commission should not allow E-rate-funded connectivity to be used in this manner.

Respectfully submitted,

CENTURYLINK

By: /s/ John E. Benedict

Tiffany W. Smink
1099 New York Avenue, N.W.
Suite 250
Washington, DC 20001
303-992-2506
tiffany.smink@centurylink.com

John E. Benedict
1099 New York Avenue, N.W.
Suite 250
Washington, DC 20001
202-429-3114
john.e.benedict@centurylink.com

Its Attorneys

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⁶⁰ 47 U.S.C. § 254(h)(1)(B).